

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION**

**ALBERT JONES, # 116301**

**PETITIONER**

**versus**

**CIVIL ACTION NO. 2:08cv179-KS-MTP**

**RON KING, Superintendent**

**RESPONDENT**

**OPINION AND ORDER**

THIS MATTER is before the court on the Motion to Expand the Record [9] filed by Petitioner. Having considered the motion, along with documents made a part of the record of this case and the applicable law, the court finds that the motion should be granted.

**PROCEDURAL HISTORY**

Petitioner Albert Jones was convicted for the sale of cocaine in the Circuit Court of Jones County, Mississippi, and on November 8, 2005, was sentenced to a term of thirty (30) years in the custody of the Mississippi Department of Corrections, with ten (10) years suspended. Petitioner's conviction and sentence were affirmed by the Mississippi Court of Appeals on February 20, 2007. *See Jones v. State*, 961 So. 2d 730 (Miss. Ct. App. 2007), *reh'g denied* June 5, 2007. Petitioner filed a motion for leave to seek post-conviction collateral relief in the state courts, and his application was denied by the Mississippi Supreme Court on August 5, 2008.

Petitioner filed his *pro se* petition for writ of habeas corpus on or about August 20, 2008. By that petition, he asserts the following grounds for habeas relief: 1) ineffective assistance of trial counsel; 2) ineffective assistance of appellate counsel; and 3) prosecutorial misconduct.

On October 14, 2008, Petitioner filed the instant Motion to Expand the Record [9]. In his motion, Petitioner requests the court to expand the record to include four affidavits from his friends and family members. *See* Ex. A-D to Motion [9]. Petitioner states that these affidavits

support his claims for ineffective assistance of counsel at trial and on direct appeal. Respondent did not oppose the motion.

### DISCUSSION

Pursuant to Rule 7 of the Rules Governing Section 2254 Cases, the court may “direct the parties to expand the record by submitting additional materials relating to the petition.” *See also Brown v. Johnson*, 224 F.3d 461, 467 (5th Cir. 2000) (quoting *Blackledge v. Allison*, 431 U.S. 63, 81-82 (1977)) (stating that “district courts have a number of tools at their disposal, including Rule 7, which can be used to expand the record and ‘dispose of some habeas petitions not dismissed on the pleadings ... without the time and expense required for [a full-fledged] evidentiary hearing’”).

Pursuant to Rule 7, the court will consider the affidavits in evaluating Petitioner’s claims. This motion is also granted as unopposed pursuant to Rule 7.2(C)(2) of the Uniform District Court Rules for the Northern and Southern Districts of Mississippi. Additionally, the court will give the Respondent an opportunity to submit arguments and materials, if necessary, in rebuttal to the affidavits. The court’s consideration of this additional material should not be construed as an opinion on the merits of the claims presented.

It is, therefore, ORDERED:

1. That Petitioner’s Motion to Expand the Record [9] is GRANTED;
2. That on or before August 10, 2009, the Respondent may file any additional arguments and/or materials in response to the affidavits submitted by Petitioner.

SO ORDERED on the 9th day of July, 2009.

s/ Michael T. Parker  
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United States Magistrate Judge